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PETER
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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

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GROUP 3600

In re the application of:

BENNETT, Kevis

5 Serial No.: 10/065,204

Art Unit: 3671

Filed: Sept. 25, 2002

Examiner: KOVACS, Arpad F.

Date: March 19, 2004

PETITION TO THE COMMISSIONER TO WITHDRAW HOLDING
OF ABANDONMENT

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Sir:

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This petition is filed under 37 CFR 1.181(a), requesting withdrawal of a holding of abandonment mailed to applicant March 11, 2004. Examiner contends applicant failed to timely reply to an Office Action of July 31, 2003. Applicant disagrees, having filed a fax response on October 3, 2003 (attached) and having again filed the response by fax on January 12, 2004 (cover sheet attached). Because applicant and examiner disagree as to the sufficiency of the reply (reply vs. no reply) and the controlling dates (date of response vs. no timely response), applicant is filing a

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petition to withdraw holding instead of a petition to revive. "Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee." MPEP 711.02(c)I.

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As shown on the first page of the attachment, the Office acknowledges receipt of an eight-page fax on October 3, 2003. A copy of the entire faxed amendment follows that page in the attachments to this petition.

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By January of this year, applicant's agent noted that the Office's PAIR web page for applicant's case gave no indication that the amendment filed on the July 31, 2003 Office Action had been entered by the examiner. Applicant's agent's telephone records show that on January 7, 2004, applicant's agent called examiner Kovacs to inquire about the delay. Mr. Kovacs responded that he had not seen an amendment, and advised applicant to contact USPTO's customer service to attempt to track it down. Examiner's agent called USPTO's customer service line for art unit 3600, 703-306-5771, and left a message on the answering machine to call back. A "Gwen" at USPTO called back a short time later and said she would look for the faxed amendment. Still later, she called again to say that the amendment could not be found, and asked for the amendment to be faxed to 703-305-7658. The entire package was faxed to that number, attention "Gwen", on January 12, 2004. A confirming fax was not received from USPTO this time (some USPTO fax machines do not autoreply to incoming faxes) however, a copy of applicant's own fax machine's Transmission Verification Report is attached.

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In view of the fact that USPTO's fax autoreply shows that the amendment was received by the USPTO on October 3, 2003, and further in view of applicant's diligent attempts to advance prosecution of his application, applicant respectfully requests a) that the holding of abandonment be withdrawn, and b) that action be taken now by the Office to examine applicant's attached
5 amendments.

Respectfully,



10 Jonathan R. Smith
Registration No. 47098



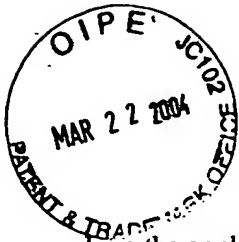
TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/065,204	
	Filing Date	09/25/2002	
	First Named Inventor	BENNETT, Kevis	
	Art Unit	3671	
	Examiner Name	KOVACS, Arpad F.	
Total Number of Pages In This Submission	8	Attorney Docket Number	BEN.0101

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts - Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Jonathan R. Smith	
Signature		
Date	10/03/2003	

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.		
Typed or printed name	Janis J. Slade	
Signature		Date 10/03/2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

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BENNETT, Kevis

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5 Serial No.: **10/065,204**

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Art Unit: **3671**

Filed: **09/25/2002**

)

Examiner: **KOVACS, Arpad F.**

Date: **10/03/2003**

)

RESPONSE TO OFFICE ACTION DATED 07/31/2003

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AMENDMENT

Sir:

In response to the Office action of the above date, the application is amended as follows:

15 **INTRODUCTORY COMMENTS:**

Applicant agrees that Haghkar '681 anticipates some elements of applicant's invention and hereby amends certain claims as noted below.

AMENDMENTS TO THE CLAIMS (CURRENT STATUS OF ALL CLAIMS):

1. (currently amended) An apparatus for removing kernels from a husked ear of corn that is rotating about its longitudinal axis, comprising:

5 a hollow tube open at both ends;

a means for cutting the kernels from the ear; and

a means for suspending the cutting means resiliently inside the tube so that when the husked ear of corn is inserted into the tube, the cutting means is pressed against the husked ear of corn by the suspending means;

10 the cutting means further comprising a partial cylinder having on its concave surface a grater, the grater further comprising sharp points extending inwardly from the partial cylinder;

the axis of the partial cylinder being parallel to the axis of the hollow tube; and

the suspending means further comprising at least one helical spring interposed between the convex side of the partial cylinder and the inside of the hollow tube.

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2. (currently amended) The apparatus of claim 1, wherein:

~~said cutting means comprises a partial cylinder further comprising a grater, the grater further~~

20 ~~comprising sharp points extending inwardly from the partial cylinder;~~

~~the axis of the partial cylinder is parallel to the axis of said hollow tube; and~~

~~said suspending means comprises at least one helical spring interposed between the convex side~~

~~of the partial cylinder and the inside of said hollow tube; the said at least one helical spring is~~

~~held in compression by at least one threaded fastener, the fastener extending from inside the said~~

25 ~~partial cylinder, through the said partial cylinder, through the center of said at least one helical~~

~~spring, through the wall of said hollow tube, and into a threaded nut.~~

3. (original) The apparatus of claim 2 further comprising:

a mounting bracket;

5 a means for husking corn ears, and

a means for affixing corn ears coaxially to a power driver.

4. (original) The apparatus of claim 3 wherein:

said mounting bracket connects said hollow tube with said means for husking corn ears; and

10 said affixing means comprises an elongate metal screw having an axis and comprising tapered threads at one end, an unthreaded shank at the other, and a flat metal collar fixed to the screw perpendicular to the axis between the tapered threads and the unthreaded shank.

5. (original) The apparatus of claim 4 wherein:

15 said mounting bracket is shaped to rest on a horizontal surface and be fastened to said hollow tube and said husking means; and

said husking means comprises a second hollow tube open at both ends, the second hollow tube having fixed to its inner wall a bristle brush, the bristle brush being oriented within the second hollow tube so that its bristles point toward the center of the second hollow tube.

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6. (original) The apparatus of claim 5 wherein:

said mounting bracket holds said hollow tube at a height above said horizontal surface to allow space between said hollow tube and said horizontal surface, and at an acute angle A with the ground such that the axis of said hollow tube is substantially aligned with the forearm of a user

25 when the user is positioned before it; and

said mounting bracket holds said second hollow tube below said hollow tube and at an acute angle with the ground greater than angle A so that the axis of said second hollow tube is substantially aligned with the forearm of the same user when the user rotates the user's forearm down at the elbow.

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7. (original) An apparatus for husking and shelling an ear of corn, the ear of corn being rotated axially by a power driver, the power driver being held by one free limb of a person, the apparatus comprising:

a) means for fixing an ear of corn coaxially on the power driver;

10 b) a first hollow tube, open at both ends, having inside the first hollow tube a partial cylinder of a radius sized to fit the surface of a typical husked ear of corn, the partial cylinder being resiliently attached inside the first hollow tube by at least one spring so that when a husked ear of corn is inserted into the first hollow tube, the partial cylinder is pressed against the surface of the husked ear of corn by the at least one spring;

15 c) a second hollow tube, open at both ends, having mounted inside it fixedly a bristle brush, the bristle brush being oriented so that the bristles point towards the center of the second hollow tube; and

d) a rigid bracket fastened to the outer surfaces of the first and second hollow tubes, the bracket being shaped to rest on a supporting surface.

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8. (original) The apparatus of claim 7 in which:

said bracket is also shaped to hold said first and second tubes in fixed positions relative to said person such that said person can insert said ear of corn into each of said tubes by moving only said one free limb.

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9. (original) A method of husking and shelling an ear of corn with a power driver, the power driver having a chuck, the chuck gripping a mandrel by a shank, the method comprising the steps of:

- a) manually debutting an ear of corn to form a flat end perpendicular to the long axis of the ear;
- 5 b) screwing the mandrel into the flat end of the ear, the mandrel comprising means for fastening the ear coaxially to the power driver;
- c) actuating the power driver;
- d) inserting the ear longitudinally into a husking tube while the power driver is running, the husking tube comprising an inner husking tube wall and means for frictionally removing the husk
- 10 and silk from the ear;
- e) moving the ear axially in and out of the husking tube while the power driver is running, until the husk and the silk is removed from the ear;
- e) withdrawing the husked ear from the husking tube;
- f) inserting the husked ear into a shelling tube while the power driver is running, the shelling tube
- 15 comprising an inner shelling tube wall and means for holding a grater in contact with the ear;
- g) moving the ear axially in and out of the shelling tube while the power driver is running, until the kernel material is removed from the ear and leaving a cob; and
- h) withdrawing the cob from the shelling tube, stopping the power driver, and unscrewing the mandrel from the cob.

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10. (currently amended) The method of claim 9 in which:

said means for fastening said ear coaxially to said power driver comprises a tapered screw at the end of said mandrel opposite said shank, with a flat collar in between the screw and said shank to fix the depth to which the screw drives into said flat end of said ear of corn;

said means for frictionally removing said husk and silk from said ear comprises a bristle brush affixed to said inner husking tube wall, the bristles pointing substantially towards the center of said husking tube;

said grater comprising a piece of sheet metal cut to fit the substantially cylindrical contour of said husked ear, the piece of sheet metal having a concave side and further comprising sharp points punched out towards the concave side; and

said means for holding said grater in contact with said ear comprises a partial cylinder resiliently fixed inside said shelling tube, the partial cylinder having a convex side and a concave side, the convex side having at least one spring interposed between it and said inner shelling tube wall, the concave side having a concave radius large enough to accommodate a large husked ear of corn, the concave side having said grater affixed to it, the spring being of a length to hold said grater at a distance from said inner shelling tube wall opposite the spring, the distance being less than the diameter of [a] said ear of corn, so that when said ear of corn is inserted into said shelling tube, the convex side of said partial cylinder is pushed into the spring and said sharp points are pushed into said ear.

REMARKS/ARGUMENTS:

Here are applicant's detailed responses to the office action, in order of their appearance in the office action.

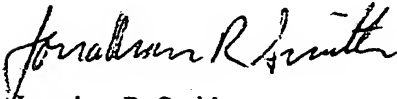
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1. See amendment of claim 10 to correct informality.

2, 3. Applicant has amended claim 1 to distinguish the claim from the prior art by incorporating part of original claim 2 into it. Amended claim 1 now distinguishes from the prior
10 art because applicant's invention comprises a *partial cylinder suspended by at least one helical spring* inside the hollow tube. Claim 2 is also amended accordingly.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

15 Sincerely,


Jonathan R. Smith

reg. no. 47098



TRANSMISSION VERIFICATION REPORT

TIME : 01/12/2004 16:48
NAME : JONATHAN
FAX : 9122645001
TEL : 9122644100
SER. #: BROGOK221844

DATE, TIME
FAX NO. /NAME
DURATION
PAGE(S)
RESULT
MODE

01/12 16:45
17033057658
00:03:01
10
OK
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213 Paradise Marsh Circle, Brunswick, GA 31525
phone 912-264-4100
fax 912-264-5001
email riggett@bellsouth.net
website warpatents.com

RIGDON Patents &
Engineering, P.C.

Fax

To: Gwen	From: Jonathan Smith
Fax: 703-305-7663	Pages: 10 including this one
Phone:	Date: 1/12/2004
Re: 10/065,204, re-fax of amendment	CC:

☒ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Gwen:

I am re-faxing this amendment at your suggestion by telephone today. (The examiner, Arpad Kovacs, advised me to contact your office last week (the third time I called him) to find out why the amendment had not yet been entered in the PAIR database.) You said you would forward this amendment to him. Note the attached PTO fax confirmation sheet from 10/3/03. You said the fax number we used at that time was correct.

Thank you,

Jonathan R. Smith